

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
THIRTIETH REGION

Milwaukee, Wisconsin

**CPS OF WISCONSIN, INC.<sup>1</sup>**

**Employer**

**and**

**Case 30-RC-6450**

**TEAMSTERS LOCAL UNION NO. 727,  
AFFILIATED WITH THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, AFL-CIO**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act (“Act”), as amended, a hearing was held before a hearing officer of the National Labor Relations Board, (“Board”).

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.<sup>2</sup>

Upon the entire record in this proceeding, the undersigned finds:

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.<sup>3</sup>

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<sup>1</sup>The name of the Employer appears as amended at hearing.

<sup>2</sup>The Employer filed a post-hearing brief that has been carefully considered. The hearing officer’s rulings made at the hearing were free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein. The Petitioner, a labor organization within the meaning of Section 2(5) of the Act, claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

The hearing opened on May 20, 2002. At the hearing, an issue of document production resulted in adjournment while subpoena enforcement proceedings were instituted in Federal District Court. Following the conclusion of those enforcement proceedings, the hearing reconvened August 19, 2002 for the completion of testimony.

<sup>3</sup>At the hearing, the Employer and Petitioner stipulated that the originally filed petition would be amended. The term “porter employees” would be omitted from the unit description since it is another term for “maintenance employees.” Also, “special event parkers” are to be excluded from the unit. In addition, the Employer and Petitioner stipulated that “operation managers,” “zone managers,” “project managers,” “building managers,” “facility managers” and “maintenance supervisors” hire, fire and use independent judgement, classifying them as supervisors under the Act.

All full-time and regular part-time cashiers, maintenance employees, parking attendants, valets, hikers and shuttle bus drivers employed by the Employer at its Milwaukee, Wisconsin facilities; excluding office clerical employees, guards and supervisors as defined in the Act.

### **ISSUE**

There are two issues for this hearing. First, whether the petitioned unit is appropriate. Second, if the unit is not appropriate, then whether shuttle bus drivers share a sufficient community of interest so that their inclusion in the petition would constitute an appropriate unit.

### **DECISION SUMMARY**

Based on the record, I find that the petitioned unit, absent the shuttle bus drivers, is not an appropriate unit, and that a unit including shuttle bus drivers constitutes an appropriate unit for the purposes of collective bargaining.

### **BACKGROUND**

CPS of Wisconsin, Inc. (“Employer”) operates parking facilities throughout the Milwaukee area. At issue in this hearing is the Employer’s surface lot located at 5201 South Howell Avenue, just across from Milwaukee’s General Mitchell International Airport. Approximately fifteen employees work at the lot, with four employees working primarily as “cashiers” and eleven employees working primarily as “shuttle bus drivers.” The same manager and assistant manager supervise both the cashiers and shuttle bus drivers.

Both cashiers and shuttle bus drivers work in conjunction at the lot. A cashier working at a toll booth greets customers as they approach. In addition to taking payment, the cashier is also responsible for directing the customer to the appropriate aisle to park their vehicle. Then, the cashier dispatches a shuttle bus driver to the appropriate aisle to pick-up the customer. After pick-up, the shuttle bus driver takes the customer to the airport terminal. Upon their return, the shuttle bus will also take the customer back to the vehicle.

While the Employer designates employees as either shuttle bus drivers or cashiers, there is employee interchange between the classifications. At least seven of the fifteen employees are cross-trained to perform both cashier and shuttle bus driver duties. And, at least six of the seven cross-trained employees are regularly scheduled to perform both functions. There is also interchange on a temporary basis. For example, when a cashier takes a daily break or a vacation, shuttle bus drivers regularly replace the cashier.

In addition to interchange, cashiers, shuttle bus drivers and maintenance employees share other common employment conditions. Both cashiers and shuttle bus drivers have similar wages and benefits sharing the same pay scale. Both also utilize the same time clock. Finally, cashiers, shuttle bus drivers and maintenance employees use the same breakroom and use the same employee handbook.

While cashiers and shuttle bus drivers have different training programs, there are no special qualifications (such as a commercial driver's license) required to perform either position.

### **ANALYSIS**

The Employer contends that the petitioned unit is not appropriate and that an appropriate unit should contain shuttle bus drivers. The Act does not require that a unit for the purposes of collective bargaining be the only appropriate unit or the most appropriate unit—Section 9(b) only requires that the unit be appropriate so as to assure employees the fullest freedom in exercising their rights guaranteed by the Act. See *Overnite Transportation Co.*, 322 NLRB 723 (1996). In defining the appropriate bargaining unit to ensure employees the fullest freedom in exercising these rights, the key inquiry is whether the employees share a sufficient community of interest. See *Alois Box Co.*, 326 NLRB 1177 (1998). In determining whether the employees in the unit sought share a community of interest, the Board examines such factors as mutuality of interest in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration. See *Ore-Ida Foods*, 313 NLRB 1016 (1994), *aff'd* 66 F.3d 328 (7<sup>th</sup> Cir. 1995). The Petitioner's desire concerning the composition of the unit also constitutes a relevant consideration. See *Marks Oxygen Company of Alabama*, 147 NLRB 228 (1964).

In applying these factors, I find that shuttle bus drivers share a community of interest with the petitioned unit. Therefore, I find that the petitioned unit, absent the shuttle bus drivers, is not appropriate, and that a unit including shuttle bus drivers constitutes an appropriate unit for the purposes of collective bargaining. I make this determination based upon two factors: (1) employee interchange and integration and (2) similar employment conditions.

First, there is significant interchange and integration between the cashiers and shuttle bus drivers. At least seven of the fifteen employees are cross-trained to perform both cashier and shuttle bus driver functions. More importantly, six of the seven cross-trained employees are regularly scheduled to perform both functions on a weekly basis. On a temporary basis, shuttle bus drivers will also replace cashiers while on break or vacation.

Second, there are similar employment conditions between cashiers, shuttle bus drivers and maintenance workers. All three classifications work at the same surface lot sharing the same break room and employee handbook. Also, all three are under the supervision of the same manager and assistant manager. In addition, cashiers and shuttle bus drivers share the same time clock and have the same pay scale.

It should be noted that while different training programs exist for cashiers and shuttle bus drivers, neither job classification requires any distinctive license, special skill or differing experience level. For example, employees only need a valid driver's license to operate the shuttle bus and are not required to possess a commercial driver's license. The high incident of employee interchange and integration also evidences the above.

As a result of the above, I find that the petitioned unit, including shuttle bus drivers, constitutes an appropriate unit for the purposes of collective bargaining.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Teamsters Local Union No. 727, affiliated with the International Brotherhood of Teamsters, AFL-CIO

### **LIST OF VOTERS**

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to the list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 384 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer shall file with the undersigned, **two** copies of an election eligibility list, containing the **full** names (including first and last names) and addresses of all the eligible voters, and upon receipt, the undersigned shall make the list available to all parties to the election. To speed

preliminary checking and the voting process itself, it is requested that the names be alphabetized. **In order to be timely filed, such list must be received in the Regional Office, Suite 700, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Milwaukee, Wisconsin 53203 on or before September 5, 2002.** No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

**RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Washington, DC 20570. **This request must be received by the Board in Washington by September 12, 2002.**

Signed at Milwaukee, Wisconsin on this 29<sup>th</sup> day of August 2002.

/s/Philip E. Bloedorn

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